IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 50 of 2006()

ST.203/2004 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-IV

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REVN. PETITIONER: COMPLAINANT.

TIJA TRADING PVT.LTD., REPRESENTED BY
ITS MANAGING DIRECTOR, E.H.TIPOO, TIMES CENTRE,
D.D.ANGADI, CONVENT JUNCTION, MARKET ROAD,
COCHIN 11.

BY ADV. SRI.M.V.PAULOSE

RESPONDENTS: ACCUSED.

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1. MAHESH.R.POTTANGADI, CHIEF CONSULTANT
& MANAGING DIRECTOR, MAHESH.R. CONSULTANCY(P)LTD.,
37/573, SREYAS, JANATHA ROAD, CALICUT 673 010.

2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR.

BY ADV. SRI.K.P.DANDAPANI
BY PUBLIC PROSECUTOR SRI.KAMMAPPU

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T.SANKARAN, J

Crl. R.P. No. 50 of 2006

Dated this the 6th day of December, 2006

ORDER

The revision is filed by the complainant in ST 203/2004 challenging the judgment dated 14th October, 2005 passed by the trial court, dismissing the complaint under Section 204(4) of the Code of Criminal Procedure.

2. The complaint was filed under Section 138 of the Negotiable Instruments Act against the first respondent. Cognizance was taken by the learned Magistrate and summons was issued to the accused. The accused did not appear and warrant was ordered to be issued against the accused. The warrant was directed to be sent by registered post. The complaint was dismissed under Section 204(4) of the Code of Criminal Procedure on the ground that on 14.10.2005, when case was called, there was no representation on behalf of the complainant and the necessary process fee or postage for issuing warrant was not furnished.

3. The judgment of the court below shows that on

9.5.2005, the complainant was absent and the accused was also absent. The case was adjourned for appearance of the parties to 15.7.2005. On that day, the complainant was absent, but he was represented by his counsel. Warrant was issued against the accused on 15.7.2005. On 14.10.2005, there was no representation on behalf of the complainant.

4. It is stated in the Memorandum of Revision that on 18.7.2005 itself, the complainant had produced necessary stamps. On 14.10.2005, when the case was called, the stamped cover was not found in the file. It is also stated that a junior advocate was directed to make a representation in the court when the case was called. It is stated that such a representation was made but the court asked whether he was representing Advocates Elhdo Paul and Tessy Jose. The counsel answered that he was representing Advocates M.V.Paulose and R.Muraleedharan. It is stated that the court did not notice that there was a change of vakalath and advocates M.V.Paulose and R.Muraleedharan had entered appearance in the case.

5. I am not pronouncing upon whether the case put

forward by the petitioner is true or not. The fact remains that the complaint was dismissed under Section 204(4) of Crl.P.C. One of the ground for dismissal is that necessary postage was not produced by the complainant. In the facts and circumstances of the case, I am of the view that one more opportunity can be afforded to the petitioner/complainant to comply with the directions of the court.

In the result, the judgment dated 14th October 2005 is set aside. The petitioner shall appear before the trial court on 19.12.2006 and shall comply with the directions already issued by the court on or before 21.12.2006. The court below shall proceed in accordance with law.

K.T.SANKARAN,
JUDGE

csl